

SENATE BILL 9  
By Cooper J

AN ACT to amend Tennessee Code Annotated, Title 47; Title 56;  
Title 63; Title 68 and Title 71, relative to business activity.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-25-101, is amended by deleting that section in its entirety and by substituting instead the following language:

47-25-101.

(a) All arrangements, contracts, agreements, trusts, or combinations between persons or corporations made with a view to lessen, or which tend to lessen, full and free competition in trade or commerce in any commodity or service in this state, tangible or intangible, and all arrangements, contracts, agreements, trusts, or combinations between persons or corporations designed, or which tend, to advance, reduce, or control the price or the cost to the producer or the consumer of any such commodity or service, are declared to be against public policy, unlawful, and void.

(b) No person shall monopolize, or attempt to monopolize, or combine or conspire with any other person to monopolize any part of the trade or commerce in any commodity or service, tangible or intangible, in this state.

SECTION 2. Tennessee Code Annotated, Section 47-25-102, is amended by deleting that section in its entirety and by substituting instead the following language:

47-25-102.

Any arrangements, contracts, and agreements that may be made by any corporation or person, or by and between its agents and subagents, to provide services in this state, or to sell and market its products and articles, manufactured in this state, or imported into this state, to any producer or consumer at prices reduced below the cost of providing such services, or the cost of production or importation of its products and articles into this state, including the cost of marketing, and a reasonable and just marginal profit, to cover wages or management, and necessary incidentals, as is observed in the usual course of general business, and the continuance of such practice under such contracts and arrangements for an unreasonable length of time, to the injury of full and free competition, or any other arrangements, contracts, or agreements, by and between its agents and subagents, which tend to lessen full and free competition in the providing of such services and the sale of all such articles manufactured and imported into the state, and which amount to a subterfuge for the purpose of obtaining the same advantage and purposes are declared to be against public policy, unlawful, and void.

SECTION 3. Tennessee Code Annotated, Section 47-25-105, is amended by deleting that section in its entirety and by substituting instead the following language:

47-25-105.

All persons and corporations, and the officers and the stockholders of all corporations, that become or continue to be members of, or in any way connected with or concerned in, any such trust, contract, agreement, combination, monopoly, or attempt to monopolize, shall be jointly and severally liable to pay all the debts, obligations, and liabilities of each and every person and corporation that become or continue to be a

member thereof, connected therewith, or concerned therein, as fully as if all were partners in the creation of such debts, obligations, and liabilities.

SECTION 4. Tennessee Code Annotated, Section 47-25-106, is amended by deleting that section in its entirety and by substituting instead the following language:

47-25-106.

Any person who is injured or damaged by any such arrangement, contract, agreement, trust, combination, monopoly, or attempt to monopolize described in this part may sue for and recover, in any court of competent jurisdiction, from any person operating such trust, combination, monopoly or attempted monopoly, the full consideration or sum paid by the person for any goods, wares, merchandise, articles, or services, tangible or intangible, the sale of which is controlled by such combination, trust, monopoly or attempted monopoly.

SECTION 5. Tennessee Code Annotated, Section 47-25-108, is amended by deleting that section in its entirety and by substituting instead the following language:

47-25-108.

When action at law or suit in equity is commenced in any court, it is lawful, in the defense thereof, to plead in bar or in abatement of the action that the plaintiff, or any other person or corporation interested in the prosecution of the action, is a member or connected with, and the cause of action grows out of, some business or transaction with such trust, pool, contract, arrangement, or combination as described in either § 47-25-101(a) or § 47-25-102; provided, that this defense shall not be available if the cause of action arises from a monopolization or attempt to monopolize trade or commerce in any good or service, tangible or intangible.

SECTION 6. This act shall take effect July 1, 2003, the public welfare requiring it.